

## Copper Antifouling Paint Sub-Workgroup 9/08/05 Meeting Notes

### In-Person Participants:

Bireley, Richard, DPR  
Gouveia, Patty, SWRCB  
Filler, Tom, SLC  
Frantz, Greg, SWRCB  
Kubiak, Rachel, DPR  
Singhasemanon, Nan, DPR  
Yee, Betty, RWQCB 5

### Phone Participants:

Alvarez, Cesar, Sea Grant Extension Program  
Candelaria, Linda, RWQCB 8  
Dobalian, Lesley, RWQCB 9  
Gonzalez, Jamie, Sea Grant Extension Program  
Moran, Kelly, TDC Environmental  
Michael, Pete, RWQCB 9  
Riviera, Ignacio-Duarte, U.S. Navy  
Tadaka, Miki, Sea Grant Extension Program

These meeting notes contain highlights of announcements, discussion topics, and pending action items. Highlighted topics are organized in a bulleted form. Pending action items are tasks that require follow up. These are denoted as “**Action Item**”. An attendance/contact information list that contains participants’ agency names, email addresses, and telephone numbers will accompany these meeting notes in a separate Excel file.

### Introductions/Agenda Review:

- Ten individuals (7 in person and 8 by phone) participated in the seventh Copper Sub-Group meeting. Nan Singhasemanon (DPR) welcomed the participants and noted that he expected a short meeting the lack of significant developments over the two months prior to the meeting.

### News, Activities, and Developments:

- Nan received responses for the workgroup roster from about one-third of those listed on the workgroup contact list. A few people asked if they could be moved to the interested parties list, which is mainly a list for non-participants who would like to receive emails and updates from the workgroup.

**Action Item:** Several more responses will be added to the roster before it is distributed.

- Nan mentioned a web link that he sent out in an email to the workgroup. The link contains a slide presentation on U.S. and international antifouling laws and policies. Jason Savarese of the National Sea Grant Law Center in Mississippi put together the material, which was previously presented at the April 2005 Aquatic Invasive Species Workshop in San Francisco.

Linda Candelaria (Region 8) heard that Congress is currently considering a bill that could have some relevance to antifouling paints (AFPs). Jamie Gonzalez (UC Sea Grant) thought that Linda was probably referring to the National Aquatic Invasive Species Act (NAISA) of 2005. The Act seeks to implement a nationwide invasive species management program. Jamie added that the only language in the Act that refers to boat hull management relates to the avoidance of in-water hull cleaning.

NAISA and previous aquatic invasive species laws and legislation can be viewed at <http://www.nemw.org/biopollute.htm#laws>. (Lynn Takata of the State Lands Commission’s Marine Invasive Species Program provided this link. Thank you.)

- Nan recently submitted monitoring data that have been identified with the help of the workgroup to U.S. EPA in support of the copper oxide reregistration. In the last set of submittals, data links and files were sent to the new chemical review manager for copper, Kathryn Avivah Jakob. Kathryn is with the Office of Pesticide Program's Antimicrobial Division in Washington, D.C.

Workgroup members are encouraged to notify Nan of any new or newly available data on copper. He can then continue to act as a conduit to U.S. EPA for the workgroup. Nan said that he has heard that data sets submitted directly to U.S. EPA have a greater chance of being evaluated than data that must be looked up via a cited reference.

Since U.S. EPA representatives were not present at the meeting, Nan provided a quick reregistration update. U.S. EPA is in the process of completing a "closure memo", which indicates the end of SMART meetings. Then the agency will start work on the environmental risk assessments. A registrant "error only review" (Phase 1 of reregistration) is expected in December 2005. Kelly Moran (TDC Environmental) has heard that this could happen as early as November. After this review, the agency will consider the registrants' comments (Phase 2). Public participation will start around February 2006 (Phase 3).

Nan said that he has been talking to Ray Chavira (U.S. EPA Region IX) about organizing a meeting between U.S. EPA and interested workgroup individuals/agencies to discuss California AFP concerns. DPR also has interests in meeting directly with the agency to discuss potential DPR actions.

- Betty Yee (Region 5) announced that her Region has decided to focus on water sampling for bacteria and petroleum products for its marina study. Therefore, Region 5 will not be collecting samples for copper and TBT.

Nan expressed that DPR was quite interested in supporting the quantification of copper in both water and sediment for this study. He thought that if Region 5 could still collect some marina water samples and send them to DPR, some useful data could still be generated. Betty said that this could still be possible; however, she would have to check with Karen Larsen (Region 5) on the feasibility of this idea.

Linda suggested to Betty that she should consult the pathogens report for Newport Bay, which described how Region 8 conducted marina sampling. Betty agreed.

- The proposed monitoring study for metals (including copper) in Newport Bay marinas has been receiving coverage from a local newspaper. Linda said that reporters wanted to know if the Regional Board was going to "restrict" copper AFPs. The position of Region 8 is that it is focused on collecting data at this point. It is not at the stage yet to evaluate any mitigation strategies. The City of Newport Beach is the contractor for this study.

The Regional Board wants to focus on marinas that are poorly flushed since there is a better chance of observing higher concentrations of copper the water column in these areas. Boats will be used for sample collection. The Regional Board will look for dissolved and total metals including tin, which Linda thinks is well correlated to organotin. Toxicity tests will also be done; however, Linda is not sure which test species will be used at this point. Linda may also look at benthic diversity in marina sediments to see if there is a link between toxicity and diversity. Region 8 has benthic diversity from other parts of Newport Bay, which can be used for comparison.

- The State Water Resources Control Board held a meeting/workshop on September 7<sup>th</sup> in Sacramento. One of the informational items on the agenda was the proposed basin plan amendment to adopt the Shelter Island Yacht Basin (SIYB) Copper TMDL/implementation plan. After hearing from supporters and opponents, Board members expressed concerns on the availability and feasibility of alternative coatings. In response to this concern, Lesley will work with UC Sea Grant to develop additional information on alternatives for the Board. Board members also asked that Region 9 and State Board staff evaluate whether the scope of antifouling paint concerns was limited to SIYB alone. Furthermore, Board members directed State Board staff to work with DPR to better determine the scope of the issue.

Greg Frantz (State Board) said that he would have an informational item for the State Board by the end of September. The proposed basin plan amendment was placed on the consent calendar for the State Board meeting on September 22<sup>nd</sup>.

Rachel Kubiak (DPR) noted that any antifouling products that claim to control pests (even if they are considered “non toxic”) may have to be registered with U.S. EPA and DPR before it can be sold and used in California. This process usually requires considerable time and money to complete.

Kelly asked whether Board members raised any concerns regarding the potential increase in usage of some of the more problematic alternatives. Nan said that this topic did not come up at the workshop. Kelly then asked if anyone would be looking closer into this topic. Nan said that although he has made this point before with his management and in his issue memo, he wants to continue to stress the importance of this issue with them. This is a legitimate concern considering that copper AFPs were the previous “best alternatives” when TBT became restricted.

Nan noted that he had come across some interesting articles on the copper AFP alternatives recently. **Action Item:** He suggested that he should compile these articles and provide them to the group.

- Pete Michael (Region 9) mentioned that the Southern California Coastal Water Research Project has completed the copper-monitoring portion of the Harbor Monitoring Study. There are still non-copper portions of this study to be completed. A draft report that will cover copper concentrations, copper toxicity, and toxicity identification evaluation is due to Region 9 by December 2005. A final report is due by March 2006.
- Nan announced that he has recently been named DPR’s new Management Agency Agreement (MAA) Coordinator. The retirement of Kathy Brunetti, the previous MAA Coordinator, necessitated the appointment. Nan will act as the primary liaison between DPR and the State and Regional Boards. Moreover, he will deal with issues directly related to the MAA and its Pesticide Management Plan. Nan said that he is excited about his new responsibilities and about the prospect of increased interactions with State and Regional Boards staff. He would still retain much of his current scientific duties, particularly those dealing with copper antifouling paints, TMDLs, and urban pesticide-related issues.
- Nan has not received feedback from DPR’s Executive Office yet on the final issue memo he submitted a couple of weeks ago and also on the copper AFP reevaluation request from the Port of San Diego. Nan thought that he should be getting feedback soon and that the management team probably needed sometime to digest all the information and discuss options before they can come up with an appropriate strategy.

- Nan said that Diane Edwards has given him permission to develop an interagency agreement, which would go to fund a statewide study of copper in marina waters and sediments. An agreement will be developed with the funding amount of \$120,000. Nan thought that this amount might not be enough depending on what the scope of work will eventually require. He will talk to Diane about procuring additional funding.

Nan also wanted to know what types of assistance the Regional Boards would be able to offer, particularly in terms of personnel and equipment. Assistance that would not require interagency agreements or exchanges of funds would be ideal. Nan said that he would contact all of the Regional Boards soon as he has a better idea of the scope of work and sampling plan.

#### **Other Items/Next Meeting/Adjourn:**

- In past meetings, Nan has noted that Region 4 projected the release date for its Marina del Rey Draft Metals TMDL to be August 2005. The release of the draft TMDL has now been pushed back without a specific expected date. Greg Frantz and Diane Edwards (SWRCB) helped track down the status of this TMDL.
- Copper AFP Industry representatives were set to meet with U.S. EPA regarding documents that an industry-led antifouling paint copper task force submitted to the EU. These documents included a bibliography of copper AFP studies, a summary of copper monitoring data for European waters, and an environmental risk assessment for copper AFPs. Industry representatives planned to share this material with U.S. EPA. They also planned to discuss the appropriateness of sharing this material with the Copper Sub-Group or specifically with DPR.
- The next Copper Sub-Group meeting is Thursday, November 10, 2005.

Meeting Notes Prepared by: Nan Singhasemanon (DPR) with notetaking assistance from Betty Yee (Region 5). Thanks, Betty!